

# **Brighton & Hove City Council**

## **For general release**

**Meeting:** Equalities Forum

**Date:** 6<sup>th</sup> March 2006

**Report of:** Director of Strategy and Governance

**Subject:** The Disability Discrimination Act 2005

### **1. Purpose of the report**

- 1.1 This report sets out the key provisions of the Disability Discrimination Act 2005, focusing on the new general and specific disability equality duties applicable to local authorities from 5<sup>th</sup> December 2006.

### **2. Recommendations**

- 2.1 That the Forum notes the provisions of the Disability Discrimination Act 2005;
- 2.2 That the Forum instructs officers to bring a report to a future meeting setting out the action proposed to implement and resource the new duties.

### **3. Information/background**

- 3.1 The Disability Discrimination Act (DDA) 2005 became law in April 2005. The DDA 2005 amends the 1995 law of the same name.
- 3.2 The first DDA in 1995 made it unlawful to treat disabled people less favourably than other people for a reason related to their disability. Local authorities and other organisations have had to make reasonable adjustments for disabled people, such as providing extra help or making changes to the way they provide their services.

- 3.3 The new Act extends the definition of disability and defines a proactive approach required from public authorities towards disability equality.

#### *Definition of disability*

- 3.3 The definition of people with a disability now includes people with HIV, multiple sclerosis and cancer. The definition of disability has been amended to reduce the reliance on the "medical model" for individuals with a mental illness which no longer has to be "clinically well-recognised". The person must still demonstrate a long-term and substantial adverse effect on his/her ability to carry out normal day-to-day activities. People with HIV, cancer (although not all cancers) and multiple-sclerosis are deemed disabled before they experience the long-term and substantial adverse effect on their activities. It is estimated that this will bring an additional 2 to 4% of individuals within the scope of the DDA.

#### *Public authorities*

- 3.4 In addition to the earlier provisions, which made it unlawful for public authorities to discriminate against disabled people in the **services** they provide, it is now unlawful for public authorities, which include local authorities and schools, to discriminate against a disabled person when exercising their **functions**. This is designed to ensure that functions of public authorities not already covered by the DDA are brought within its scope.

#### *New general duty*

- 3.4 Furthermore, in exercising their functions, a new general duty to promote equality of opportunity for disabled people is included in the Act. This requires schools and local authorities to have regard to the need to:
- eliminate unlawful discrimination and harassment against disabled people;
  - promote equality of opportunity for disabled people;
  - promote positive attitudes towards disabled people;
  - encourage disabled people to participate fully in public life.

#### *New specific duties*

- 3.5 Local authorities are now subject to a framework of new specific duties. The specific duties are designed to assist the planning, delivery and evaluation of action required to meet the general duty to promote equality of opportunity for disabled people. At the heart of the new specific duties is the requirement to produce a Disability Equality Scheme, which is explained in detail at paragraph 4 below.

#### *Councillors*

- 3.6 Elected members are now covered by the DDA. It is unlawful for a local authority to discriminate against their members in relation to carrying out official duties. Local authorities must make reasonable adjustments in relation to disabled members and provide them with support so that they will not be discriminated against. This would, for example, cover sign language interpretation at official meetings and functions.

### **4. The Disability Equality Scheme**

- 4.1 The requirement for local authorities to produce a Disability Equality Scheme is set out in the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (the Regulations). The Regulations state that a public authority must:-

- Publish a Disability Equality Scheme (the Scheme) demonstrating how it intends to fulfil its general and specific duties;
- Involve disabled people in the development of the Scheme;
- Within three years of the Scheme being published, take the steps set out in its action plan;
- Publish a report containing a summary of the steps taken under the action plan, the results of its information gathering and the use to which it has put the information.

- 4.2 The Scheme itself is required to include a statement of:-

- The way in which disabled people have been involved in the development of the scheme;

- The authority's methods for impact assessment;
- Steps which the authority will take towards fulfilling its general duty (the "action plan");
- The authority's arrangements for gathering information in relation to employment and its delivery of education and its functions;
- The authority's arrangements for putting information gathered to use, in particular in reviewing the effectiveness of its action plan and in preparing subsequent Disability Equality Schemes.

4.3 All local authorities must publish their Schemes no later than 4<sup>th</sup> December 2006. (Educational establishments are required to publish their schemes by 3<sup>rd</sup> December 2007). The Disability Rights Commission has already published a statutory code of practice on the duty to promote disability equality giving detailed guidance on the general and specific duties, including each element of the requirements for the Disability Equality Scheme.

4.4 The Regulations specify that the Scheme may be set out within another published document or a number of other published documents. The Scheme could, therefore, form part of a comprehensive equality scheme. Further, the code of practice suggests that discrete areas of activity (for example, housing, education, highways and social services) should have separate action plans within the generic Disability Equality Scheme for the authority.

## **5. The need for strategic planning for all aspects of equality**

5.1 It is clear that the new DDA requires local authorities to look at its operations in multiple roles – as employer, service provider and elected organisation. This is work that is currently undertaken in relation to the general duty to promote race equality and will also be likely to be required in relation to gender when the new public duty to promote equality between men and women comes into force. The Council will need to plan a cohesive approach to this work which avoids duplication whilst meeting the statutory requirements in relation to each duty.

5.2 There will also be some significant training needs, for example with governing bodies in relation to their new legal responsibilities towards disabled people.

- 5.3 The Disability Rights Commission code of practice states that “in general, public authorities are likely to find it easier to meet their duties under the Act if they employ someone with disability expertise to co-ordinate the drawing up, monitoring and reviewing of the Disability Equality Scheme”. The council will need to consider and determine its arrangements to resource the work required. It is proposed that a report is brought to a future meeting of this forum setting out the council's implementation plan.

Contact Officer  
Elizabeth Culbert - 1515